

10/25/05

1631

Customer No. 000042131

Docket No. 104.002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Eugene S. Pearlman

SERIAL NO.: 09/303,315

FILED: April 30, 1999

FOR: ALGORITHMIC TESTING IN LABORATORY MEDICINE



Group Unit:1631

Ex: Lori A. Clow

AMENDMENT Under 37 CFR 1.111

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:

Applicant files the following claim amendments in response to the Office action mailed July 28, 2005. Applicant requested a telephone interview which was held on July 19, 2005 between Applicant's attorney and Examiners Lori Clow, Primary Marjorie Moran and Supervisor Ardin Marschel.

On October 12, 2005, applicant submitted draft amendments in the claims and an Interview Record for review by Examiner Clow. On October 14, 2005, Examiner Clow left a telephone message asking if she could review the papers on October 17, 2005 since she had just returned from shoulder surgery. On October 19, 2005, Examiner Clow sent by e-mail a communication by e-mail pointing out some errors in the Interview Record and suggested that more inaccuracies in the

Interview Record may exist. Applicant's attorney has a full record of the Interview transcribed and submits it as an Affidavit for the Record as Exhibit 1.

Interview Record under 37 C.F.R. 1.133

Date: July 19, 2005 at 11.00 a.m.

Re: U.S. Application Serial No 09/303, 315 by E.S. Pearlman, filed 4/30/1999

Applicant: Absent was Representing Assignee, Marc Wolfert, VP, Central Laboratories-he was delayed; Attorney Rashida Karmali

Examiners: Examiner Lori Clow, Primary Examiner Marjorie Moran
and Supervisor Ardin Marschel.

Summary:

Prior Art: U.S. Patent 6,099,469, issued August 8, 2000, filed June 2, 1998.

Mr Marc Wolfert was unable to attend the telephone interview because he was delayed in the traffic. He instructed that the interview take place on time without him.

Supervisor Marschel stated that before proceeding with the interview he wanted to clarify that the role of the examiners was to assist applicants so that their patents issue.

Applicant's attorney, Rashida Karmali responded that it was her duty to ensure that her client's application received proper and fair Examination. She was willing to work together with the examiners to achieve that end.

Examiner Lori Clow was asked to describe the July 28, 2005 rejection. She stated that the rejection based on Armstrong prior art had been maintained. The phrase "not allowing a technician to add unnecessary tests" in the amendment was new matter and did not overcome Armstrong.

Attorney Karmali responded that Armstrong had been raised in the Office Action of June 2004 and had been overcome. Armstrong had been withdrawn in the October 28, 2004 Office Action.

Examiner Clow stated that it was a mistake to withdraw Armstrong.

Attorney Karmali complained that the entire lengthy prosecution during the five years had been inconsistent, and conducted on a piecemeal basis –contrary to MPEP Rules. To rectify this attorney Karmali had held a personal interview in March 2004 with Examiner Clow and her Supervisor Marjorie Moran. At the interview it seemed that all issues had been resolved, including Armstrong, which was withdrawn.

Supervisor Moran stated that in the March personal interview, they had stated that there was no prior art for Hepatitis claim and it was allowable. Therefore, she suggested that if claim 27 is combined with claim 1, the amended claim 27 will be allowable. She advised attorney Karmali to submit the draft amended claims to Examiner Clow before filing the next response.